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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/790,883

03/03/2004

Hisamitsu Takagi

1442.1018

4739

21171 7590 03/05/2007
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EXAMINER

SINGH, RAMNANDAN P

ART UNIT

PAPER NUMBER

2614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/790,883	Applicant(s) TAKAGI, HISAMITSU	
	Examiner Ramnandan Singh	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-11, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on Dec. 01, 2006 have been considered but are moot in view of the new ground(s) of rejection.

Drawings

2. Applicant's argument--- "Figs. 1-19, 21-39 and 43-44 conform to the standards of drawings as set forth in 37 CFR 1.84" on page 5.

Examiner's response---In this context, Applicant is respectfully directed to 37 CFR 1.84 (O) which states: "Legends : Suitable descriptive legends may be used subject to approval by the Office, or may be required by the examiner where necessary for understanding of the drawing. They should contain as few words as possible". Therefore, the objections to the drawings as set forth in the previous Office action stand.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute)

so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

The claimed invention in the instant applicant is fully disclosed in the U.S. Patent number 7,034,755 B2 and it is broader than the claimed invention in the Patent. No new invention , or new improvement is being

claimed in the instant application. Applicant is now attempting to claim broadly that which has been previously described in more detail in the claims of the Patent (In re Van Ornum, 214 USPQ 761 CCPA 1982).

Furthermore, there is no apparent reason why Applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent.

Claims 1-15 of the instant application are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U. S. Patent No. US 7,034,755 B2, since the claims, if allowed, would improperly extend the "right to exclude" already granted in the Patent. Although conflicting claims are not identical, they are not patentably distinct from each other because the context of the claimed invention is similar to the context of the cited claim of the U.S. Patent.

The subject matter of claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the instant application are claiming common subject matter, as follows: a

mobile radio communication apparatus comprising: a first housing; a second housing foldable over the first housing; and a hinge part that foldably connects the second housing to the first housing around a rotational center axis, wherein the hinge part includes: a one touch opening part that automatically opens the second housing from a folded state by a first angle relative to the first housing around the rotational center axis in a non-stop motion; and an auxiliary rotational part that rotates the second housing around an orthogonal shaft orthogonal to the rotational center axis of the hinge part.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 9-11, 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyashita [GB 2348077 A].

Regarding claim 1, Miyashita teaches a mobile radio communication apparatus, as shown in Figures 10 and 11, comprising:

- a first housing (52);

- a second housing (50) foldable over the first housing [Page 19, lines 19-21]; and

- a hinge part (54A) that foldably connects the second housing to the first housing around a rotational center axis [Page 19, line 22 to Page 20, line 2],

- wherein the hinge part includes:

- a one touch opening part that automatically opens the second housing from a folded state by a first angle relative to the first housing around the rotational center axis in a non-stop motion [Fig. 8; Page 17, lines 17-21]; and

- an auxiliary rotational part that rotates the second housing around an orthogonal shaft orthogonal to the rotational center axis of the hinge part [Figs. 10-11; Page 20, lines 3-16; Page 6, lines 15-25].

Claims 14 and 15 are essentially similar to claim 1 and are rejected for the reasons stated above.

Regarding claim 2, Miyashita further teaches the mobile radio communication apparatus, wherein the auxiliary rotational part (54B) inherently includes a cam part that clicks and provides a semifixed state whenever the second housing rotates by a predetermined angle around the orthogonal shaft [Figs. 10-11].

Regarding claims 3-6, the limitations are shown above.

Regarding claim 9, Miyashita further teaches the mobile radio communication apparatus, wherein the hinge part includes a free stop part (i.e. stopper claw 26) that maintains the second housing at a second angle different from the first angle relative to the first housing [Fig. 5; Page 11, line 25 to Page 13, line 2].

Regarding claims 10-11, the limitations are shown above.

Allowable Subject Matter

6. Claims 7-8 and 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 7 recites the limitation: "a flexible printed circuit board wound around the orthogonal shaft, the flexible printed circuit board electrically connecting the first and second housings to each other". The prior art of record does not teach this limitation.

Claim 12 recites the limitation: "the hinge part further includes a damper part that brakes an opening action of the second housing by the one touch opening part". The prior art of record does not teach this limitation.

Therefore, claims 7 and 12 are indicated allowable. Further, since claim 8 being dependent from claim 7 and claim 13 being dependent from claim 12 are also indicated allowable.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramnandan Singh whose telephone number is (571) 272-7529. The examiner can normally be reached on M-TH (8:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated

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information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ramnandan Singh
Examiner
Art Unit 2614

A handwritten signature in black ink, appearing to read 'R. Singh', with a long, sweeping horizontal stroke underneath.